



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-3503 FAX (603) 271-2867



PLEASE NOTE: Effective September 1, 2003, the street address is 29 Hazen Drive.
September 29, 2003

Elektrisola, Inc.
Attn: George P. Downing, V.P.
126 High Street
Boscawen, NH 03303

Re: Docket No. AF 03-031 - Administrative Fine by Consent Agreement

Dear Mr. Downing:

Enclosed for your records is a copy of the Administrative Fine by Consent Agreement in this matter executed by Philip J. O'Brien, Ph.D., P.G., Waste Management Division Director, and accepted by Commissioner Michael P. Nolin on September 26, 2003. On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,

COPY
Michael Sclafani,
Legal Assistant

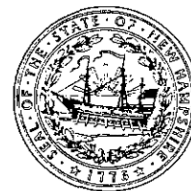
cc: Philip J. O'Brien, Ph.D., P.G., Director, Waste Management Division
Gretchen Rule, DES Legal Unit
Susan Weiss Alexant, Hearings and Rules Attorney
Mark R. Harbaugh, DES Legal Unit
Linda Birmingham, DES WMD



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

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Elektrisola, Inc.
126 High Street
Boscawen, NH 03303

ADMINISTRATIVE FINE
BY CONSENT

No. AF 03-031

I. INTRODUCTION

This Administrative Fine by Consent is entered into by and between the Department of Environmental Services, Waste Management Division, and Elektrisola, Inc. pursuant to RSA 147-A:17-a. This Administrative Fine by Consent ("Agreement") is effective upon signature by all parties.

II. PARTIES

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its main office at 6 Hazen Drive, Concord, NH.
2. Elektrisola, Inc. ("Elektrisola") is a New Hampshire corporation that registered with the New Hampshire Secretary of State's Office on September 3, 1975. Elektrisola has a mailing address of 126 High Street, Boscawen, NH.

III. BACKGROUND

1. Pursuant to RSA 147-A, DES regulates the management and disposal of hazardous waste. Pursuant to RSA 147-A:3, the Commissioner of DES has adopted Env-Wm 100-1100 ("Hazardous Waste Rules") to implement this program.
2. Pursuant to RSA 147-A:17-a, the Commissioner of DES is authorized to impose fines of up to \$2,000 per violation for violations of RSA 147-A or rules adopted pursuant thereto. Pursuant to this section, the Commissioner has adopted Env-C 612 to establish the schedule of fines for such violations.
3. Elektrisola is a hazardous waste generator that notified the United States Environmental Protection Agency ("EPA") of its activities through DES on November 20, 1980. EPA

Identification Number NHD040252744 was assigned to Elektrisola's site located at 126 High Street, Boscawen, NH.

4. On March 6, 2003, DES personnel inspected Elektrisola for compliance with RSA 147-A and its implementing regulations, the Hazardous Waste Rules. As a result of the violations of the Hazardous Waste Rules observed during this inspection, DES issued Letter of Deficiency No. WMD 03-13 ("LOD") to Elektrisola on June 18, 2003. Based on the violations observed during the inspection listed above, DES believes that an administrative fine is appropriate in this case for the Class I violation.

IV. ALLEGATIONS, ADMINISTRATIVE FINES

1. Specifically, as stated in the LOD, Elektrisola, failed to conduct adequate site-specific waste determinations on four (4) waste streams (*i.e.*, Waste "Sodium Hydroxide-NaOH", Waste Concentrated "Drawing Lube", "Pit #1 Waste Water, and Waste "Carbon Filter" from treatment of "Pink Water"), as required by Env-Wm 502.01 ("Violation 1"). Env-C 612.05(a) authorizes a fine of \$1,500 per determination, for a potential fine of \$6,000.
2. Specifically, as stated in the LOD, Elektrisola, failed to perform hazardous waste training for the following employees with hazardous waste management duties, as required by Env-Wm 509.02(a)(2): no annual training in years 1999 and 2001 for emergency coordinators Timothy Day and Fred Egounis and no initial training for Mark Lamprey hazardous waste handler ("Violation 2"). Env-C 612.07(b) authorizes a fine of \$1,750 per individual not trained for initial training and \$1,000 per individual not trained for annual updates, for a potential fine of \$5,750 (*i.e.*, four (4) years of annual training and one (1) initial training).
3. Specifically, as stated in the LOD, Elektrisola failed to maintain an adequate contingency plan on-site, as required by Env-Wm 509.02(a)(5) ("Violation 3"). Env-C 612.07(e) authorizes a fine of \$2,000.
4. Specifically, as stated in the LOD, Elektrisola failed to provide hazardous waste training for satellite storage operators, with hazardous waste duties, for one (1) satellite area (*i.e.*, Enameling Area), as required by Env-Wm 509.03 (b) ("Violation 4"). Env-C 612.07(j) authorizes a fine of \$1,000 per satellite storage provision.
5. Specifically, as stated in the LOD, Elektrisola, failed to ensure that one (1) 55-gallon container of broken universal waste lamps, located in the Trash Dock Area, was closed, except when universal waste is being added to or removed from the container, as required by Env-Wm 1102.03(c)(1) ("Violation 5"). Pursuant to Env-C 610, which references Env-Wm 1102.03(c)(1), the Division proposes a fine of \$300 for each container that is 55-gallons or greater.
6. Specifically, as stated in the LOD, Elektrisola, failed obtain a permit for the intentional crushing or dismantling of universal waste lamps, as required by Env-Wm 1112.03(b)

("Violation 6"). Pursuant to Env-C 610, which references Env-Wm 1102.03(b), DES proposes a fine of \$1,000 per each storage or treatment unit.

V. PAYMENT, WAIVER OF HEARING

1. DES agrees to waive fines associated with Violations 2 through 5 because they are not Class I violations.

2. Violation 1 is a Class I violation. However, Elektrisola documented that three (3) waste streams were analyzed and determined to be non-hazardous (*i.e.*, Waste Concentrated "Drawing Lube", "Pit #1 Waste Water, and Waste "Carbon Filter" from treatment of "Pink Water") and the "Waste Sodium Hydroxide-NaOH" was profiled and shipped correctly. DES is thus not seeking a fine for this violation.

3. Elektrisola agrees to pay \$1,000 for Violation 6 which is a Class I violation, upon execution of this Agreement by Elektrisola.

4. Payment under Section V. Paragraph 3 shall be paid by certified check made payable to: "Treasurer, State of New Hampshire" and shall be mailed to:

DES Legal Unit
Attn: Michael Sclafani, Legal Assistant
PO Box 95
Concord, NH 03302-0095

5. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.

6. By executing this Agreement, Elektrisola, waives its right to a hearing on or any appeal of the administrative fines identified in this Agreement, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.

7. The effective date of this Agreement will be the date on which it is signed by an authorized representative of Elektrisola, and the Director of the Waste Management Division, and the Commissioner of DES.

8. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.

ELEKTRISOLA, INC.

COPY
By: Mr. George P. Downing, Vice President
Duly Authorized

9/9/03
Date

DEPARTMENT OF ENVIRONMENTAL SERVICES

COPY
Philip J. O'Brien, Ph.D., P.G.
Director
Waste Management Division

9/23/03
Date

COPY
(-5) Michael P. Noll, Commissioner

9/26/03
Date